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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,956	04/20/2004	John Man Kwong Kwan	358-001CIPC	7144

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GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

EXAMINER

PATEL, NIRAV B

ART UNIT	PAPER NUMBER
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2135

MAIL DATE	DELIVERY MODE
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09/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,956

Applicant(s)

KWAN, JOHN MAN KWONG

Examiner

Nirav Patel

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment filed on July 02, 2007 has been entered. Claims 1-19 are pending. Claims 2-19 are amended by the applicant.

2. The Office would like to notify the Applicant that there has been a change in the Examiner to conduct the future examination and prosecution processes of the currently pending application.

3. Terminal disclaimer filed on July 02, 2007 contains typographic error. The reference to patent number provided on page 1 (6,792,515) needs to be corrected to the patent number 6,792,535. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-4 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoshiura et al (US Patent No. 6,711,276).

As per claim 1, Yoshiura discloses:

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means for locating in the digital data, using a predetermined pattern, at least two values that represents a flat area [col. 6 lines 46-57 i.e. detecting a target block]; and means for modifying the values in the flat area to encode a mark into the fiat area [col. 7 lines 7-22 i.e. modifying/changing luminance or quantities of each of block]; wherein the means for locating in the digital data is further comprised of: means for calculating a variability for a selected portion of the digital data using the predetermined pattern [col. 6 lines 54-63, col. 8 lines 29-36 i.e. calculating/determining a motion vector]; and means for representing the flat area when the variability is less than a predetermined amount [col. 8 lines 48-57, Fig. 5 i.e. determining rules and area/block based on the magnitude of the motion vector]; wherein the apparatus for encoding is part of a device receiving an unencoded data to create the digital data; and wherein the apparatus for encoding is part of the device using the values in the flat area to create all encoded data [Fig. 1, 2].

As per claims 2, 3, the rejection of claim 1 is incorporated and Yoshiura teaches:

the predetermined pattern is a regular pattern/ an irregular pattern [Fig. 3, col. 6 lines 54-64].

As per claim 4, the rejection of claim 1 is incorporated and Yoshiura teaches:

wherein the predetermined pattern identifies a consecutive set of values [Fig. 3, 4].

As per claim 14, the rejection of claim 1 is incorporated and Yoshiura teaches:

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at least one of the means is implemented using a computer accessing a memory [Fig. 1, 2].

As per claims 15-16, the rejection of claim 1 is incorporated and Yoshiura teaches:

wherein the device is included in a computer receiving the unencoded data, wherein the device communicates with a processor within a computer to create the encoded data within the computer [Fig. 1, 2,].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-13 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshiura et al (US Patent No. 6,711,276) and in view of Echizen et al (US Patent No. 6,728,408).

As per claim 5, the rejection of claim 1 is incorporated and Yoshiura teaches modifying the value [col. 10 lines 5-14].

Echizen teaches:

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wherein the means for modifying the values is further comprised of: means for modifying tile values according to a recognizable amount, adding the recognizable amount to the value, subtracting the recognizable amount from the value [col. 6 lines 46-62, col. 4 lines 13-29].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Echizen with Yoshiura, since one would have been motivated to provide watermark embedding technique capable of minimizing the number of pixels, while a reliability of detecting embedded data is maintained high [Echizen, col. 1 lines 63-67].

As per claims 6, 7, the rejection of claim 5 is incorporated and Yoshiura teaches modifying the value [col. 10 lines 5-14].

Echizen teaches:

wherein the means for adding/subtracting the recognizable amount to/from the value[col. 6 lines 46-62, col. 4 lines 13-29].

As per claim 8, the rejection of claim 5 is incorporated and Yoshiura teaches:

a means for calculating a function of the variability in the flat area [col. 8 lines 29-41, col. 6 lines 46-64].

As per claim 9, the rejection of claim 8 is incorporated and Yoshiura teaches:

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means for computing the recognizable amount as a multiple of the variability in the flat area [col. 8 lines 29-41, col. 6 lines 46-64].

As per claim 10, the rejection of claim 5 is incorporated and Echizen teaches:

means for modifying the values in the flat area to provide at least one known peak in the flat area [col. 4 lines 14-38].

As per claim 11, the rejection of claim 1 is incorporated and Echizen teaches:

means for modifying at least two of the values in the digital data to represent a single mark value in the flat area [col. 6 lines 46-61].

As per claim 12, the rejection of claim 1 is incorporated and Echizen teaches:

means for locating in the digital data, using a predetermined pattern, at least two values that represents a second fiat area; and means for modifying the values in the second fiat area to encode the mark into the second fiat area [Fig. 1].

As per claim 13, the rejection of claim 1 is incorporated and Echizen teaches:

means for converting the format of the digital data [col. 2 lines 38-41].

As per claims 17-18, the rejection of claim 1 is incorporated and Echizen teaches:

wherein the predetermined pattern is two dimensional [col.2 lines 13-15].

Response to Amendment

6. Applicant's amendment filed on July 02, 2007 has been fully considered. However, upon further consideration, a new ground(s) of rejection is based on Yoshiura et al (US Patent No. 6,711,276) and in view of Echizen et al (US Patent No. 6,728,408). See rejections above.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nirav Patel whose telephone number is 571-272-5936. The examiner can normally be reached on 8 am - 4:30 pm (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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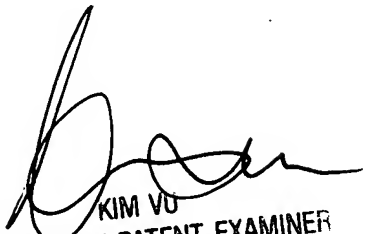
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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NBP

9/10/07



KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100